



**DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
1100 Commerce Street, MC 4920DAL
Dallas, TX 75242**

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Date: October 24, 2019

Number: 202005023
Release Date: 1/31/2020

UIL: 501.03-00

EIN:

Person to Contact:

Identification Number:

Telephone Number:

**CERTIFIED MAIL – Return Receipt Requested
LAST DAY FOR FILING A PETITION WITH THE TAX COURT:**

Dear :

This is a final determination that you do not qualify for exemption from federal income tax under Internal Revenue Code (the "Code") section 501(a) as an organization described in Code section 501(c)(3), effective January 1, 20 . Your determination letter dated May 28, 20 is revoked.

Our adverse determination as to your exempt status was made for the following reasons:

You have not established that you are organized and operated exclusively for an exempt purpose or that you have been engaged primarily in activities that accomplish one or more exempt purposes within the meaning of IRC section 501(c)(3).

As such, you failed to meet the requirements of I.R.C. § 501(c)(3) and Treasury Regulation § 1.501(c)(3)-1(a), in that you have not established that you were organized and operated exclusively for exempt purposes.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code.

Organizations that are not exempt under section 501 generally are required to file federal income tax returns and pay tax, where applicable. For further instructions, forms, and information please visit www.irs.gov.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of section 7428 of the Code in one of the following three venues: 1) United States Tax Court, 2) the United States Court of Federal Claims, or 3) the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed within 90 days from the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment by referring to the enclosed Publication 892. You may write to the courts at the following addresses:

United States Tax Court
400 Second Street, NW
Washington, DC 20217

U.S. Court of Federal Claims
717 Madison Place, NW
Washington, DC 20005

U. S. District Court for the District of Columbia
333 Constitution Ave., N.W.
Washington, DC 20001

Processing of income tax returns and assessments of any taxes due will not be delayed if you file a petition for declaratory judgment under section 7428 of the Internal Revenue Code.

You may be eligible for help from the Taxpayer Advocate Service (TAS). TAS is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 1-877-777-4778.

Taxpayer Advocate assistance can't be used as substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determination, nor extend the time fixed by law that you have to file a petition in Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

You can get any of the forms or publications mentioned in this letter by calling 800-TAX-FORM (800-829-3676) or visiting our website at www.irs.gov/forms-pubs.

If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Peter Lorenzette, Acting

for Maria Hooke
Director, EO Examinations

Enclosures:
Publication 892



**Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
Exempt Organizations Examinations**

Date:

July 1, 2019

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact:

Employee ID:

Telephone:

Fax:

Manager's Contact Information:

Employee ID:

Telephone:

Response Due Date:

CERTIFIED MAIL – Return Receipt Requested

Dear :

Why you're receiving this letter

We enclosed a copy of our audit report, Form 886-A, Explanation of Items, explaining that we propose to revoke your tax-exempt status as an organization described in Internal Revenue Code (IRC) Section 501(c)(3)

If you agree

If you haven't already, please sign the enclosed Form 6018, Consent to Proposed Action, and return it to the contact person shown at the top of this letter. We'll issue a final adverse letter determining that you aren't an organization described in IRC Section 501(c)(3) for the periods above.

After we issue the final adverse determination letter, we'll announce that your organization is no longer eligible to receive tax deductible contributions under IRC Section 170.

If you disagree

1. Request a meeting or telephone conference with the manager shown at the top of this letter.
2. Send any information you want us to consider.
3. File a protest with the IRS Appeals Office. If you request a meeting with the manager or send additional information as stated in 1 and 2, above, you'll still be able to file a protest with IRS Appeals Office after the meeting or after we consider the information.

The IRS Appeals Office is independent of the Exempt Organizations division and resolves most disputes informally. If you file a protest, the auditing agent may ask you to sign a consent to extend the period of limitations for assessing tax. This is to allow the

IRS Appeals Office enough time to consider your case. For your protest to be valid, it must contain certain specific information, including a statement of the facts, applicable law, and arguments in support of your position. For specific information needed for a valid protest, refer to Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

Fast Track Mediation (FTM) referred to in Publication 3498, The Examination Process, generally doesn't apply now that we've issued this letter.

4. Request technical advice from the Office of Associate Chief Counsel (Tax Exempt Government Entities) if you feel the issue hasn't been addressed in published precedent or has been treated inconsistently by the IRS.

If you're considering requesting technical advice, contact the person shown at the top of this letter. If you disagree with the technical advice decision, you will be able to appeal to the IRS Appeals Office, as explained above. A decision made in a technical advice memorandum, however, generally is final and binding on Appeals.

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final adverse determination letter.

Contacting the Taxpayer Advocate Office is a taxpayer right

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

For additional information

You can get any of the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

If you have questions, you can contact the person shown at the top of this letter.

Sincerely,



for Maria Hooke
Director, Exempt Organizations
Examinations

Enclosures:
Form 886-A
Form 6018
Form 4621-A
Publication 892
Publication 3198-A

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended December 31, 20XX

Date of Notice: July 1, 20XX

Issues:

1. Whether (Organization), meets the organizational test under Internal Revenue Code (IRC) Section (Sec.) 501(c)(3)?
2. Whether the Organization meets the operational test under IRC Sec. 501(c)(3)?
3. Whether the Organization continues to qualify for exemption from Federal income tax under IRC Sec. 501(c)(3)?

Facts:

The Organization filed Form 1023-EZ, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, for exemption on May 22, 20XX. The Organization received Letter 5436, *Determination of Exemption under Section 501(c)(3) as a Public Charity-EZ* and was granted exempt 20XX.

The Organization states in their Articles of Incorporation, "This corporation is organized for

within the purposes provided in Section 501 (c) (3) of the Internal Revenue Code of 19XX."

, Treasurer of the Organization stated in a letter dated March 26, 20XX, the Organization is a "non-profit was formed to handle . The non-profit also facilitates the upkeep and repairs to the ." The Organization further stated "The board of directors sets the prices for the sale of ..."

The Organization in its 20XX meeting minutes states the following:

"501C3 was again discussed. To receive the advantage of this grant money the association needs to be incorporated. Costs incurred to achieve this status will be taken from account."

The main activity of the organization is to maintain the year-round, to open and upon the day of which may occur during the year, and to sell . On the Form 990, *Return of Organization Exempt From Income Tax*, for the tax period ended December 31, 20XX the Organization reported four sources of revenue shown in the table below.

Description of revenues	Amounts
	0.00
	0.00
	0.00
	0.00
Total revenues	0.00

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended December 31, 20XX

Law:

Internal Revenue Code (IRC)

IRC Sec. 501(c)(3) Requires tax exempt entities be organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes or to foster national and/or international amateur sports competition, or for the prevention of cruelty to children or animals, provided that no part of the net earnings inures to the benefit of any private shareholder or individual.

Treasury Regulations (Treas. Reg.)

Treas. Reg. Sec. 1.501(c)(3)-1(a)(1) In order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in the section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Treas. Reg. Sec. 1.501(c)(3)-1(b)(iv) In no case shall an organization be considered to be organized exclusively for one or more exempt purposes, if, by the terms of its articles, the purposes for which such organization is created are broader than the purposes specified in section 501(c)(3). The fact that the actual operations of such an organization have been exclusively in furtherance of one or more exempt purposes shall not be sufficient to permit the organization to meet the organizational test. Similarly, such an organization will not meet the organizational test as a result of statements or other evidence that the members thereof intend to operate only in furtherance of one or more exempt purposes.

Treas. Reg. Sec. 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will not be regarded as "operated exclusively" for one or more exempt purposes described in section 501(c)(3) of the Code if more than an insubstantial part of its activities is not in furtherance of a 501(c)(3) purpose. Accordingly, the organization does not qualify for exemption under section 501(c)(3) of the Code.

Treas. Regs. Sec. 1.501(c)(3)-1(d)(1)(i) – In general an organization may be exempt as an organization described in 501(c)(3) if it is organized and operated exclusively for one or more of the following purposes:

- Religious
- Charitable
- Scientific
- Testing for public safety
- Literary
- Educational
- Prevention of cruelty to children or animals.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
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Treas. Regs. Sec. 1.501(c)(3)-1(d)(1)(ii) - An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Organization's Position

The Organization has not received this report.

Government's Position

1. It is the Government's position the Organization does not meet the organizational test under IRC Sec. 501(c)(3).

Under IRC Sec. 501(c)(3) tax exempt entities are **organized and operated exclusively** for religious, charitable, scientific, testing for public safety, literary, or educational purposes or to foster national and/or international amateur sports competition, or for the prevention of cruelty to children or animals, provided that no part of the net earnings inures to the benefit of any private shareholder or individual.

Further, Treas. Reg. Sec. 1.501(c)(3)-1(b)(iv) state in no case shall an organization be considered to be organized exclusively for one or more exempt purposes, if, by the terms of its articles, **the purposes for which such organization is created are broader than the purposes specified in Section 501(c)(3).**

Here, the Organization states in their Articles of Incorporation, "This corporation is organized for religious and benevolent purposes...and **to support and maintain the related to said organization.**

The clause states broadly the Organization was organized for religious and benevolent purposes, but not exclusively for religious and benevolent purposes. Additionally, the purpose clause empowers the Organization to engage in activities, i.e. support and maintain the related to said organization, which are not in the furtherance of an exempt purpose within the meaning of IRC Sec. 501(c)(3).

Therefore, this does not meet the organizational test under IRC Sec. 501(c)(3).

2. It is the Government's position the Organization does not meet the operational test under IRC Sec. 501(c)(3).

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended December 31, 20XX

Under Treas. Reg. Sec. 1.501(c)(3)-1(c)(i) an organization will not be regarded as "operated exclusively" for one or more exempt purposes described in Section 501(c)(3) of the Code if more than an insubstantial part of its activities ins not in furtherance of a 501(c)(3) purpose.

Here, , Treasurer of the Organization stated in a letter dated March 26, 20XX the Organization is a "non-profit was formed to handle the sale of

On the Form 990, *Return of Organization Exempt From Income Tax*, for the tax period ended December 31, 20XX the Organization reported four sources of revenue shown in the table below.

Description of revenues	Amounts
	0.00
	0.00
	0.00
	0.00
Total revenues	0.00

The total revenues generated by \$0.00, activities not exempt under IRC Sec. 501(c)(3). 0% of total revenues are generated by these activities.

Therefore, the Organization is engaged in more than an insubstantial (0%) of activities exempt within the meaning of IRC Sec. 501(c)(3).

3. It is the Government's Position the Organization does not continue to qualify for exemption from Federal income tax under IRC Sec. 501(c)(3).

Under, **IRC Sec. 501(c)(3)** requires tax exempt entities be **organized and operated exclusively** for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national and/or international amateur sports competition, or for the prevention of cruelty to children or animals, provided that no part of the net earnings inures to the benefit of any private shareholder or individual.

Here (in issues one and two) it has been established the Organization was not organized or operated exclusively for one or more exempt purposes within the meaning of IRC Sec. 501(c)(3).

Therefore, the Organization no longer continues to qualify for exempt status under IRC Sec. 501(c)(3).

Conclusion

It has been determined the Organization was not organized or operated for exempt purposes within the meaning IRC Sec. 501(c)(3). Accordingly, the organization's exempt status is revoked effective January 1, 20XX.